

II auction support recipients to certify the networks they operated in the prior year meet the Commission's performance requirements, to identify the total amount of support, if any, that was used for capital expenditures in the previous calendar year, and to certify they have available funds for all project costs that will exceed the amount of support to be received from the authorization stemming from the Phase II auction for the next calendar year. *Connect America Fund, et al.*, WC Docket No. 10–90, et al., Report and Order and Further Notice of Proposed Rulemaking, 31 FCC Rcd 5949 (2016) (*CAF Phase II Auction Order*).

In the *New York Waiver Order*, the Commission extended to New York carriers who receive Connect America Phase II support in conjunction with the state's New NY Broadband Program the same annual reporting requirements adopted for Phase II auction recipients, as well as the requirement for the state public service commission to certify annually that those carriers' high cost support "was used in the preceding calendar year and will be used in the coming calendar year only for the provision, maintenance, and upgrading of facilities and services for which the support is intended." *Connect America Fund; ETC Annual Reports and Certifications*, WC Docket Nos. 10–90, 14–58, Order, 32 FCC Rcd 968 (2017) (*New York Waiver Order*).

In the *December 2018 Rate-of-Return Order*, the Commission modified the reasonable request certification rule applicable to rate-of-return ETCs to (1) require Connect America Fund-Alternative Connect America Cost Model (CAF-ACAM) support recipients to certify that they are meeting the relevant reasonable request standard and (2) require rate-of-return ETCs receiving legacy high-cost support to certify that they are meeting a 25 Mbps/3 Mbps reasonable request standard. *Connect America Fund et al.*, WC Docket No. 10–90 et al., Report and Order, Further Notice of Proposed Rulemaking, and Order on Reconsideration, FCC 18–176, at 19–20, para. 17 (Dec. 13, 2018) (*December 2018 Rate-of-Return Order*). See also 47 CFR 54.313(f)(1)(i).

In the *CAF Phase II Transitions Order*, the Commission adopted rules requiring price cap or fixed competitive eligible communications carriers receiving phase-down support to certify that the phase-down support they received in the previous year was used to provide voice service to high-cost and extremely high-cost census blocks where they continue to have federal obligation to provide such services. *Connect America*

Fund, WC Docket 10–90, Report and Order, FCC 19–8, at 11, para. 25 (Feb. 15, 2019).

The Commission therefore proposes to revise this information collection, as well as Form 481 and its accompanying instructions, to reflect these new and revised requirements. We also propose to increase the burdens associated with existing reporting requirements to account for additional carriers that will be subject to those requirements.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2020–04332 Filed 3–2–20; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[WC Docket Nos. 17–108, 17–287, 11–42; DA 20–168; FRS 16518]

Telecommunications; Common Carriers; Internet

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: In this document the Wireline Competition Bureau seeks to refresh the record regarding the issues remanded to the Federal Communications Commission by the U.S. Court of Appeals for the D.C. Circuit decision in *Mozilla Corp. v. FCC*.

DATES: Comments are due on or before March 30, 2020, and reply comments are due on or before April 29, 2020.

ADDRESSES: You may submit comments, identified by WC Docket Nos. 17–108, 17–287, and 11–42, by any of the following methods:

- *Federal Communications Commission's Website:* <https://www.fcc.gov/ecfs/>. Follow the instructions for submitting comments.
- *Mail:* Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission. All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St. SW, Room TW–A325,

Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701. U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street SW, Washington, DC 20554.

- *People With Disabilities:* To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an email to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (tty).

For detailed instructions for submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Annick Banoun, Competition Policy Division, Wireline Competition Bureau, at (202) 418–1521 or annick.banoun@fcc.gov.

SUPPLEMENTARY INFORMATION: In the *Restoring Internet Freedom Order* (83 FR 7852), the Commission ended utility-style regulation of the internet and returned to the light-touch framework under which a free and open internet underwent rapid and unprecedented growth for almost two decades. In *Mozilla Corp. v. FCC*, the U.S. Court of Appeals for the District of Columbia Circuit upheld the vast majority of the Commission's decision, remanding three discrete issues for further consideration by the Commission. On February 6, 2020, the D.C. Circuit denied all pending petitions for rehearing, and the Court issued its mandate on February 18, 2020. With this Public Notice, the Wireline Competition Bureau seeks to refresh the record regarding the issues remanded to the Commission by the *Mozilla Court*.

Public Safety. First, we seek to refresh the record on how the changes adopted in the *Restoring Internet Freedom Order* might affect public safety. In the *Restoring Internet Freedom Order*, the Commission predicted, for example, that permitting paid prioritization arrangements would "increase network innovation," "lead[] to higher investment in broadband capacity as well as greater innovation on the edge provider side of the market," and "likely . . . be used to deliver enhanced service for applications that need QoS

[i.e., quality of service] guarantees.” Could the network improvements made possible by prioritization arrangements benefit public safety applications—for example, by enabling the more rapid, reliable transmission of public safety-related communications during emergencies? Relatedly, the Commission concluded that, because prioritizing packets for latency-sensitive applications would not typically degrade other applications on the same network, any non-profits, libraries, or independent content providers who declined to pay for prioritization would not be harmed. Would this same logic also apply to public safety communications? Do broadband providers have policies in place that facilitate or prioritize public safety communications? To what extent do public safety officials (at both the state and local level) even rely on mass-market retail broadband services covered by the *Restoring Internet Freedom Order* (i.e., services that only promise “best efforts” in the delivery of content), rather than dedicated networks with quality-of-service guarantees (i.e., enterprise or business data services) for public safety applications? With respect to public safety incidents described in the *Mozilla* decision and elsewhere, would the providers’ allegedly harmful conduct have been prohibited under the rules adopted by the Commission in the *Title II Order*? Are concerns or consequences of broadband providers’ possible actions different for public-safety-to-public-safety communications, such as onsite incident response or Emergency Operations Center communications, versus public safety communications made to or from the public? Do the Commission and other governmental authorities have other tools at their disposal that are better suited to addressing potential public safety concerns than classification of broadband as a Title II service? Are there any other impacts on public safety from the changes adopted in the *Restoring Internet Freedom Order*? Finally, how do any potential public safety considerations bear on the Commission’s underlying decision to classify broadband as a Title I information service?

Pole Attachments. Second, we seek to refresh the record on how the changes adopted in the *Restoring Internet Freedom Order* might affect the regulation of pole attachments in states subject to federal regulation. To what extent are ISPs’ pole attachments subject to Commission authority in non-reverse preemption states by virtue of the ISPs’ provision of cable or

telecommunications services covered by section 224? What impact would the inapplicability of section 224 to broadband-only providers have on their access to poles? Have pole owners, following the *Order*, “increase[d] pole attachment rates or inhibit[ed] broadband providers from attaching equipment”? How could we use metrics like increases or decreases in broadband deployment to measure the impact the *Order* has had on pole attachment practices? Are there any other impacts on the regulation of pole attachments from the changes adopted in the *Order*? Finally, how do any potential considerations about pole attachments bear on the Commission’s underlying decision to classify broadband as a Title I information service?

Lifeline Program. Third, we seek to refresh the record on how the changes adopted in the *Restoring Internet Freedom Order* might affect the Lifeline program. In particular, we seek to refresh the record on the Commission’s authority to direct Lifeline support to eligible telecommunications carriers (ETCs) providing broadband service to qualifying low-income consumers. In the *2017 Lifeline NPRM*, the Commission proposed that it “has authority under section 254(e) of the Act to provide Lifeline support to ETCs that provide broadband service over facilities-based broadband-capable networks that support voice service,” and that “[t]his legal authority does not depend on the regulatory classification of broadband internet access service and, thus, ensures the Lifeline program has a role in closing the digital divide regardless of the regulatory classification of broadband service.” How, if at all, does the *Mozilla* decision bear on that proposal, and should the Commission proceed to adopt it? For example, the Court in *Mozilla* invited the Commission to explain how its authority under section 254(e) could extend to broadband, “even ‘over facilities-based broadband-capable networks that support voice service’ now that broadband is no longer considered to be a common carrier.” We seek to refresh the record in light of the Court’s invitation. We also ask parties to refresh the record on whether there are other sources of authority that allow the Commission to provide Lifeline support for broadband services. Are there any other impacts on the Lifeline program from the changes adopted in the *Restoring Internet Freedom Order*? Finally, how do any potential considerations about the Lifeline program bear on the Commission’s underlying decision to classify

broadband as a Title I information service?

These proceedings shall be treated as a “permit-but-disclose” proceeding in accordance with the Commission’s *ex parte* rules. Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter’s written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule 1.1206(b). In proceedings governed by rule 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (e.g., .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission’s *ex parte* rules.

Pursuant to sections 1.415 and 1.419 of the Commission’s rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using the Commission’s Electronic Comment Filing System (ECFS). See *Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998).

■ **Electronic Filers:** Comments may be filed electronically using the internet by accessing the ECFS: <http://apps.fcc.gov/ecfs/>.

■ *Paper Filers:* Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

■ All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St. SW, Room TW-A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand

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Federal Communications Commission.

Daniel Kahn,

Associate Chief, Wireline Competition Bureau.

[FR Doc. 2020-04313 Filed 3-2-20; 8:45 am]

BILLING CODE 6712-01-P

FEDERAL COMMUNICATIONS COMMISSION

[FRS 16529]

Open Commission Meeting, Friday, February 28, 2020

February 21, 2020.

The Federal Communications Commission will hold an Open Meeting on the subjects listed below on Friday, February 28, 2020 which is scheduled to commence at 10:30 a.m. in Room TW-C305, at 445 12th Street SW, Washington, DC.

Item No.	Bureau	Subject
1	Wireless Tele-Communications	<i>Title:</i> Expanding Flexible Use of the 3.7 to 4.2 GHz Band (GN Docket No. 18-122). <i>Summary:</i> The Commission will consider a Report and Order and Proposed Order of Modification that would reform the use of the 3.7-4.2 GHz band, also known as the C-band, to promote U.S. leadership in the next generation of wireless services, including fifth-generation (5G) wireless and other advanced spectrum-based services, and close the digital divide.
2	Economics & Analytics	<i>Title:</i> Auction of Flexible-Use Service Licenses in the 3.7-3.98 GHz Band for the Next-Generation Wireless Services (AU Docket No. 20-25). <i>Summary:</i> The Commission will consider a Public Notice that would seek comment on procedures for the auction of new flexible-use overlay licenses in the 3.7-3.98 GHz band (Auction 107) for Next Generation Wireless Services.
3	Economics & Analytics	<i>Title:</i> Auction of Priority Access Licenses for the 3550-3650 MHz Band (AU Docket No. 19-244). <i>Summary:</i> The Commission will consider a Public Notice that would establish application and bidding procedures for Auction 105, the auction of Priority Access Licenses in the Citizens Broadband Radio Service in the 3550-3650 MHz band.
4	Engineering & Technology	<i>Title:</i> Unlicensed White Space Device Operations in the Television Bands (ET Docket No. 20-36). <i>Summary:</i> The Commission will consider a Notice of Proposed Rulemaking that would propose targeted changes to the white space device rules in the TV bands (channels 2-35) to provide improved broadband coverage that would benefit American consumers in rural and underserved areas.
5	Economics & Analytics	<i>Title:</i> Comment Sought on Competitive Bidding Procedures and Certain Program Requirements for Rural Digital Opportunity Fund Auction (Auction 904); (AU Docket No. 20-34); (WC Docket No. 19-126); (WC Docket No. 10-90). <i>Summary:</i> The Commission will consider a Public Notice that would launch the process of establishing pre- and post-auction application procedures and competitive bidding procedures to allocate up to \$16 billion to support the deployment of fixed broadband networks in rural America in Phase I of the Rural Digital Opportunity Fund.
6	Media Bureau	<i>Title:</i> Electronic Delivery of MVPD Communications (MB Docket No. 17-317); Modernization of Media Regulation Initiative (MB Docket No. 17-105). <i>Summary:</i> The Commission will consider a Report and Order that would modernize the carriage election notice provisions in the FCC's Rules for low-power TV and noncommercial educational translator stations, which are not required to maintain online public inspection files.
7	Media Bureau	<i>Title:</i> Amendment of Commission Rule Requiring Records of Cable Operator Interests in Video Programming (MB Docket No. 20-35); Modernization of Media Regulation Initiative (MB Docket No. 17-105). <i>Summary:</i> The Commission will consider a Notice of Proposed Rulemaking that would seek comment on whether to eliminate or modify the requirement in the FCC's Rules that cable operators maintain records in their online public inspection files regarding the nature and extent of their attributable interests in video programming services.